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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MATEO EDUARDO PACHECO-GONZALEZ,
FELIX OCTAVIO PACHECO-GONZALEZ,
MARCO VINICIO PACHECO-GONZALEZ,
NATALIE HELLEN KOVTOUN, ANGELA
SINGH, KGONEH SECKA and MARIA DEL
CARMEN MARTINEZ-ESPINOSA, on their own
behalf and on the behalf of others similarly situated,

Case No.: 12 CV 5778 (GBD)

Plaintiffs,

-against-

TEN'S CABARET INC., and CHRISTOPHER REDA,
and individual,

Defendants.

-----X
ANSWER AND AFFIRMATIVE DEFENSES

Defendants TEN'S CABARET INC. and CHRISTOPHER REDA, by their attorneys,
Oved & Oved LLP, hereby answer Plaintiffs' Complaint, upon information and belief, as
follows:

1. Deny knowledge and information sufficient to form a belief as to the allegations
contained in paragraph 1 of the Complaint.
2. Deny the allegations contained in paragraph 2 of the Complaint, except admit that
Christopher Reda is an individual and that Plaintiffs purport to seek the relief set forth therein for
the reasons set forth therein.
3. Deny the allegations contained in paragraph 3 of the Complaint.

4. Deny the allegations contained in paragraph 4 of the Complaint.

5. Deny the allegations contained in paragraph 5 of the Complaint.

6. Deny the allegations contained in paragraph 6 of the Complaint.

7. The allegations contained in paragraph 7 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 7 of the Complaint, except admit that Plaintiffs purport to base subject matter jurisdiction on the statutory provisions cited therein.

8. The allegations contained in paragraph 8 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 8 of the Complaint, except admit that Plaintiffs purport to base supplemental jurisdiction over its State law claims on the statutory provisions cited therein.

9. The allegations contained in paragraph 9 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 9 of the Complaint, except admit that Plaintiffs purport to base venue on the statutory provisions cited therein.

10. The allegations contained in paragraph 10 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 10 of the Complaint.

11. Deny the allegations contained in paragraph 11 of the Complaint.

12. Deny the allegations contained in paragraph 12 of the Complaint.
13. Deny the allegations contained in paragraph 13 of the Complaint.
14. Deny the allegations contained in paragraph 14 of the Complaint.
15. Deny the allegations contained in paragraph 15 of the Complaint.
16. Deny the allegations contained in paragraph 16 of the Complaint.
17. Deny the allegations contained in paragraph 17 of the Complaint.
18. Deny the allegations contained in paragraph 18 of the Complaint, except admit that Ten's Cabaret, Inc. is a New York corporation.

19. The allegations contained in paragraph 19 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 19 of the Complaint.

20. Deny the allegations contained in paragraph 20 of the Complaint.
21. Deny the allegations contained in paragraph 21 of the Complaint.
22. Deny the allegations contained in paragraph 22 of the Complaint.
23. The allegations contained in paragraph 23 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 23 of the Complaint.

24. Deny the allegations contained in paragraph 24 of the Complaint.
25. Deny the allegations contained in paragraph 25 of the Complaint.
26. Deny the allegations contained in paragraph 26 of the Complaint.

27. The allegations contained in paragraph 27 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 27 of the Complaint.

28. The allegations contained in paragraph 28 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 28 of the Complaint.

29. Deny the allegations contained in paragraph 29 of the Complaint.

30. Deny the allegations contained in paragraph 30 of the Complaint.

31. Deny the allegations contained in paragraph 31 of the Complaint.

32. Deny the allegations contained in paragraph 32 of the Complaint.

33. Deny the allegations contained in paragraph 33 of the Complaint.

34. Deny the allegations contained in paragraph 34 of the Complaint.

35. Deny the allegations contained in paragraph 35 of the Complaint.

36. Deny the allegations contained in paragraph 36 of the Complaint.

37. Deny the allegations contained in paragraph 37 of the Complaint.

38. Deny the allegations contained in paragraph 38 of the Complaint.

39. Deny the allegations contained in paragraph 39 of the Complaint.

40. Deny the allegations contained in paragraph 40 of the Complaint.

41. Deny the allegations contained in paragraph 41 of the Complaint.

42. Deny the allegations contained in paragraph 42 of the Complaint.

43. Deny the allegations contained in paragraph 43 of the Complaint.

44. Deny the allegations contained in paragraph 44 of the Complaint.

45. Deny the allegations contained in paragraph 45 of the Complaint.
46. Deny the allegations contained in paragraph 46 of the Complaint.
47. Deny the allegations contained in paragraph 47 of the Complaint.
48. Deny the allegations contained in paragraph 48 of the Complaint.
49. Deny the allegations contained in paragraph 49 of the Complaint.
50. Deny the allegations contained in paragraph 50 of the Complaint.
51. Deny the allegations contained in paragraph 51 of the Complaint.
52. Deny the allegations contained in paragraph 52 of the Complaint.
53. Deny the allegations contained in paragraph 53 of the Complaint.
54. Deny the allegations contained in paragraph 54 of the Complaint.
55. Deny the allegations contained in paragraph 55 of the Complaint.
56. Deny the allegations contained in paragraph 56 of the Complaint.
57. Deny the allegations contained in paragraph 57 of the Complaint.
58. Deny the allegations contained in paragraph 58 of the Complaint.
59. Deny the allegations contained in paragraph 59 of the Complaint.
60. Deny the allegations contained in paragraph 60 of the Complaint.
61. Deny the allegations contained in paragraph 61 of the Complaint.
62. Deny the allegations contained in paragraph 62 of the Complaint.
63. Deny the allegations contained in paragraph 63 of the Complaint.
64. Deny the allegations contained in paragraph 64 of the Complaint.
65. Deny the allegations contained in paragraph 65 of the Complaint.
66. Deny the allegations contained in paragraph 66 of the Complaint.
67. Deny the allegations contained in paragraph 67 of the Complaint.

68. Deny the allegations contained in paragraph 68 of the Complaint.

69. Deny the allegations contained in paragraph 69 of the Complaint.

70. Deny the allegations contained in paragraph 70 of the Complaint.

71. Deny the allegations contained in paragraph 71 of the Complaint.

72. Deny the allegations contained in paragraph 72 of the Complaint.

73. The allegations contained in paragraph 73 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 73 of the Complaint.

74. The allegations contained in paragraph 74 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 74 of the Complaint.

75. Deny the allegations contained in paragraph 75 of the Complaint.

76. Deny the allegations contained in paragraph 76 of the Complaint.

77. The allegations contained in paragraph 77 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 77 of the Complaint.

78. The allegations contained in paragraph 78 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 78 of the Complaint.

79. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 79 of the Complaint.

80. The allegations contained in paragraph 80 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 80 of the Complaint.

81. The allegations contained in paragraph 81 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 81 of the Complaint.

82. The allegations contained in paragraph 82 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 82 of the Complaint.

83. The allegations contained in paragraph 83 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 83 of the Complaint.

84. The allegations contained in paragraph 84 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 84 of the Complaint.

85. Defendants repeat and reallege each and every admission and denial in response to those paragraphs of the Complaint referred to in paragraph 85 thereof as though fully set forth herein.

86. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 86 of the Complaint.

87. The allegations contained in paragraph 87 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 87 of the Complaint.

88. The allegations contained in paragraph 88 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 88 of the Complaint.

89. The allegations contained in paragraph 89 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 89 of the Complaint.

90. Deny the allegations contained in paragraph 90 of the Complaint.

91. Deny the allegations contained in paragraph 91 of the Complaint.

92. The allegations contained in paragraph 92 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 92 of the Complaint.

93. Defendants repeat and reallege each and every admission and denial in response to those paragraphs of the Complaint referred to in paragraph 93 thereof as though fully set forth herein.

94. The allegations contained in paragraph 94 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 94 of the Complaint.

95. The allegations contained in paragraph 95 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 95 of the Complaint.

96. The allegations contained in paragraph 96 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 96 of the Complaint.

97. The allegations contained in paragraph 97 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 97 of the Complaint.

98. The allegations contained in paragraph 98 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 98 of the Complaint.

99. Defendants repeat and reallege each and every admission and denial in response to those paragraphs of the Complaint referred to in paragraph 99 thereof as though fully set forth herein.

100. Deny knowledge and information to form a belief as to the allegations contained in paragraph 100 of the Complaint.

101. The allegations contained in paragraph 101 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 101 of the Complaint.

102. The allegations contained in paragraph 102 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 102 of the Complaint.

103. The allegations contained in paragraph 103 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 103 of the Complaint.

104. Deny the allegations contained in paragraph 104 of the Complaint.

105. The allegations contained in paragraph 105 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 105 of the Complaint.

106. Defendants repeat and reallege each and every admission and denial in response to those paragraphs of the Complaint referred to in paragraph 106 thereof as though fully set forth herein.

107. The allegations contained in paragraph 107 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 107 of the Complaint.

108. The allegations contained in paragraph 108 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 108 of the Complaint.

109. The allegations contained in paragraph 109 of the Complaint contain conclusions of law and therefore no response is required. To the extent the allegations are deemed factual, Defendants deny the allegations contained in paragraph 109 of the Complaint.

110. Deny each and every allegation set forth in the “WHEREFORE” clause and specifically deny that Plaintiffs are entitled to any relief whatsoever.

111. Deny each and every other allegation contained in the Complaint not expressly admitted in this Answer and Affirmative Defenses (the “Answer”).

DEFENDANTS’ AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs’ claims, in whole or in part, fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs have been paid all monies owed to them.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs’ claims are barred, in whole or in part, based on the applicable statutes of limitation.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs cannot establish or satisfy the requirements for a collective action pursuant to Section 215(b) of the FLSA and, therefore, the collective action allegations of the Complaint should be stricken.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs’ claims are barred, in whole or in part, because at no time material hereto did any Defendant act in a willful, wanton, reckless, and/or malicious manner; Defendants acted in good faith, nonwillfully, and with reasonable grounds for believing that their conduct and employment policies were not in violation of the FLSA or the NYLL.

SIXTH AFFIRMATIVE DEFENSE

Although Defendants deny owing any unpaid wages or other amounts to Plaintiffs, if it is determined that any such monies are owed, Plaintiffs cannot establish that any alleged violation of the FLSA was willful and thus, cannot establish entitlement to the three-year statute of limitations with respect to their claims.

SEVENTH AFFIRMATIVE DEFENSE

Although Defendants deny owing any unpaid wages or other amounts to Plaintiffs, if it is determined that any such monies are owed, Plaintiffs' claim for liquidated damages is barred because any and all actions taken by Defendants were undertaken in good faith and with reasonable grounds for believing such actions were not in violation of the FLSA or the NYLL.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because all acts or omissions were in good faith conformity with and reliance on the written administrative regulations, orders, rulings, approvals, and/or interpretations of the Administrative Wage and Hour Division of the United States Department of Labor.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, based on the applicable tip allowance provisions set forth in 12 N.Y.C.R.R. § 137-1.5 and any related federal statutes or laws.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrines of estoppel and waiver.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs' alleged injuries and/or damages, their entitlement to which being expressly denied, were caused by Plaintiffs' own actions, omissions or conduct.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred to the extent of Plaintiffs' fraud, fraudulent inducement, bad faith, misrepresentations, and/or unclean hands.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, for lack of subject matter jurisdiction.

FIFTEENTH AFFIRMATIVE DEFENSE

The Court should not exercise supplemental jurisdiction over the counts in the Complaint that purport to arise under the NYLL.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because the Defendants are not a "joint or unified enterprise" for purposes of the FLSA or the NYLL.

SEVENTEENTH AFFIRMATIVE DEFENSE

The corporate defendants are not enterprises in commerce for purposes of FLSA.

EIGHTEENTH AFFIRMATIVE DEFENSE

The individual defendant is not an "employer" for purposes of the FLSA or the NYLL.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' failure to mitigate their claimed damages, their entitlement to which being expressly denied.

TWENTIETH AFFIRMATIVE DEFENSE

Some or all of the class action allegations asserted in the Complaint are barred because Plaintiffs' claims are not common to nor typical of the claims of the alleged class, as defined by Plaintiffs, the existence of which is expressly denied.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Some or all of the class action allegations asserted in the Complaint are barred because Plaintiffs is inadequate representatives of the alleged class as defined by Plaintiffs, the existence of which is expressly denied.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Certain of Plaintiffs' interests are in conflict with the interest of all or certain members of the alleged class as defined by Plaintiffs, the existence of which is expressly denied.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Some or all of the class action allegations asserted in the Complaint are barred because a class action would be unmanageable and is not superior to other available methods for the fair and efficient adjudication of this controversy.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

To the extent Plaintiffs received other benefits and/or awards attributable to an injury for which they seek compensation in this action, such benefits and/or awards should offset, in whole or in part, any award they receive here for the same injury.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Although Defendants deny owing any unpaid wages or other amounts to Plaintiffs, if Defendants are found to owe any monies to Plaintiffs, any time spent in any preliminary and

postliminary activities must be excluded from compensable hours of work pursuant to Sections 252(b) and (c) of the FLSA.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

To the extent that Plaintiffs claim an entitlement to an award of unpaid straight time, such claims are not cognizable under the FLSA.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

The allegations set forth in the Complaint against Defendants are false, frivolous and groundless and the Defendants reserve the right to seek sanctions, attorneys' fees as costs pursuant to Fed. R. Civ. Proc. 11 and any other applicable statute.

RESERVATION OF RIGHTS

Defendants give notice that they intend to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserve the right to amend this Answer to assert such additional defenses.

JURY DEMAND

Defendants demand a trial by jury.

WHEREFORE, Defendants hereby request that the Court grant them the following relief:

- (i) dismiss the Complaint in its entirety with prejudice;
- (ii) award Defendants their costs and disbursements incurred in this suit;
- (iii) award Defendants their reasonable attorneys' fees to the full extent permitted by applicable law;
- (iv) grant Defendants such other and further relief as the Court may deem just and proper.

Dated: New York, New York
November 12, 2012

/S/
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